



Reprinted
February 24, 2009

SENATE BILL No. 420

DIGEST OF SB 420 (Updated February 23, 2009 5:52 pm - DI 103)

Citations Affected: IC 5-28; IC 8-1.

Synopsis: Renewable energy. Requires the economic development corporation (corporation), in consultation with the office of energy and defense development, to establish the office of small business energy advancement. Requires the corporation to assist small businesses in obtaining state and federal energy tax incentives or other financial assistance. Requires the utility regulatory commission (IURC) to consider in the rate base of a public utility that complies with certain renewable energy standards (RES) any capital expenditures made by the public utility to extend gas or electric service to a customer that produces biofuels. Requires the IURC to provide certain financial incentives for implementing electric line facilities projects to electricity suppliers that comply with a certain RES. Requires electricity suppliers to comply with an RES by specified dates. Provides that an electricity supplier that does not comply with a higher RES is not eligible for certain financial incentives related to renewable energy development. Provides that: (1) low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facilities; and (2) purchases of energy produced by such facilities; qualify for the financial incentives available for clean coal and energy projects. Provides that an eligible business may recover qualified utility system expenses, which include specified preconstruction costs, associated with a: (1) new energy production or generating facility; or (2) low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility. Makes technical changes.

Effective: Upon passage; July 1, 2009.

**Hershman, Stutzman,
Young R Michael**

January 12, 2009, read first time and referred to Committee on Rules and Legislative Procedure.

February 16, 2009, amended; reassigned to Committee on Utilities and Technology.

February 19, 2009, amended, reported favorably — Do Pass.

February 23, 2009, read second time, amended, ordered engrossed.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 420

A BILL FOR AN ACT to amend the Indiana Code concerning
utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-28-2-6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 6. For purposes of IC 5-28-17, "small business"**
4 **means a business entity that satisfies the following requirements:**

5 (1) **On at least fifty percent (50%) of the working days of the**
6 **business entity occurring during the preceding calendar year,**
7 **the business entity employed at least two (2) but not more**
8 **than one hundred (100) employees.**

9 (2) **The majority of the employees of the business entity work**
10 **in Indiana.**

11 SECTION 2. IC 5-28-5-6.5 IS ADDED TO THE INDIANA CODE
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2009]: **Sec. 6.5. The board, in consultation with the office of**
14 **energy and defense development, shall establish the office of small**
15 **business energy advancement to carry out the corporation's duties**
16 **under IC 5-28-17. The office of energy and defense development**
17 **shall provide staff support to the office of small business energy**

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advancement.

SECTION 3. IC 5-28-17-1, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The corporation shall do the following to carry out this chapter:

(1) Contribute to the strengthening of the economy of Indiana by encouraging the organization and development of new business enterprises, including technologically oriented enterprises.

(2) Submit an annual report to the governor and to the general assembly not later than November 1 of each year. The annual report must:

(A) include detailed information on the structure, operation, and financial status of the corporation; and

(B) be in an electronic format under IC 5-14-6.

The board shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days before the hearing in accordance with IC 5-14-1.5-5(b).

(3) Approve and administer loans from the microenterprise partnership program fund established by IC 5-28-18.

(4) Conduct activities for nontraditional entrepreneurs under IC 5-28-18.

(5) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(6) Establish and administer the microenterprise partnership program under IC 5-28-19.

(7) Assist small businesses in obtaining state and federal energy tax incentives.

(8) Establish a statewide network of public, private, and educational resources to inform small businesses of the state and federal programs under which they may obtain financial assistance or realize reduced costs.

(b) The corporation may do the following to carry out this chapter:

(1) Receive money from any source, enter into contracts, and expend money for any activities appropriate to its purpose.

(2) Do all other things necessary or incidental to carrying out the corporation's functions under this chapter.

(3) Establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented enterprises.

(4) Conduct conferences and seminars to provide entrepreneurs

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with access to individuals and organizations with specialized expertise.

(5) Establish a statewide network of public, private, and educational resources to assist the organization and development of new enterprises.

(6) Operate a small business assistance center to provide small businesses, including minority owned businesses and businesses owned by women, with access to managerial and technical expertise and to provide assistance in resolving problems encountered by small businesses.

(7) Cooperate with public and private entities, including the Indiana Small Business Development Center Network and the federal government marketing program, in exercising the powers listed in this subsection.

(8) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(9) Approve and administer loans from the microenterprise partnership program fund established by IC 5-28-18.

(10) Coordinate state funded programs that assist the organization and development of new enterprises.

(11) Consult and cooperate with the office of energy and defense development in the establishment of the office of small business energy advancement under IC 5-28-5-6.5.

SECTION 4. IC 5-28-17-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3. The office of small business advancement established under IC 5-28-5-6.5 shall provide free access to the office's services through:**

(1) a toll free telephone number; and

(2) an Internet web page maintained on the web site of the office of energy and defense development.

SECTION 5. IC 8-1-2-23.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23.1. (a) This section applies to a public utility that complies with the schedule set forth in IC 8-1-37-5(b).**

(b) For purposes of section 23 of this chapter, the construction, addition, extension, or improvement of a public utility's plant or equipment to provide electric or gas service to a customer that produces biodiesel, ethanol, or any other biofuel is in fact used and useful in the public service.

(c) This subsection applies to a public utility's general rate proceeding that immediately follows the public utility's investment

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in a construction, an addition, an extension, or an improvement described in subsection (b). A public utility may accrue for recovery in the rate proceeding depreciation and a return, not to exceed a total of fifty million dollars (\$50,000,000), on the public utility's investment at the rate of return authorized by the commission in the public utility's general rate proceeding immediately preceding the investment. The accrual of a return by a public utility under this subsection:

(1) begins on the date the public utility initially records the investment in the public utility's books or records, as determined by the commission; and

(2) ends on the earlier of the following dates:

(A) The date on which the public utility accrues the full return determined under this subsection.

(B) The date rates are placed in effect after a general rate proceeding that recognizes an investment by a public utility in the public utility's rate base.

(d) Notwithstanding subsection (c), the commission shall revoke a cost recovery approved under this chapter for an electricity supplier that the commission determines has:

(1) elected to; and

(2) failed to;

comply with the schedule set forth in IC 8-1-37-5(b).

(e) This section expires December 31, 2020, unless reauthorized by the general assembly before December 31, 2020. However, a return accrued under this section before January 1, 2021, expires on the appropriate date determined under subsection (c)(2) even if the expiration date occurs after December 31, 2020.

SECTION 6. IC 8-1-8.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.4. Electric Line Facilities Projects

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. As used in this chapter, "electric line facilities" means the following:

(1) Overhead or underground electric transmission lines.

(2) Overhead or underground electric distribution lines.

(3) Electric substations.

Sec. 3. As used in this chapter, "electric line facilities project" means an addition to or the construction, operation, maintenance, reconstruction, relocation, upgrading, or removal of electric line

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1 facilities.

2 Sec. 4. As used in this chapter, "electricity supplier" means a
3 public utility that furnishes retail electric service to the public.

4 Sec. 5. As used in this chapter, "public utility" has the meaning
5 set forth in IC 8-1-2-1.

6 Sec. 6. As used in this chapter, "regional transmission
7 organization" refers to the regional transmission organization
8 approved by the Federal Energy Regulatory Commission for the
9 control area in which an electricity supplier operates electric line
10 facilities.

11 Sec. 7. As used in this chapter, "renewable energy resources"
12 has the meaning set forth in IC 8-1-37-4.

13 Sec. 8. This chapter applies to an electricity supplier that
14 complies with the schedule set forth in IC 8-1-37-5(b).

15 Sec. 9. (a) The commission shall encourage electric line facilities
16 projects by creating the following financial incentives for electric
17 line facilities that are reasonable and necessary:

18 (1) The timely recovery of costs, by means of a periodic rate
19 adjustment mechanism, incurred by an electricity supplier in
20 connection with an electric line facilities project that
21 transmits or distributes electricity generated from renewable
22 energy resources.

23 (2) The timely recovery of costs, by means of a periodic rate
24 adjustment mechanism, incurred by an electricity supplier
25 taking service under a tariff of, or being assessed costs by the:

26 (A) regional transmission organization; or

27 (B) Federal Energy Regulatory Commission.

28 (b) The commission shall determine a reasonable schedule
29 under which an electricity supplier may recover costs under this
30 section. In making a determination under this subsection, the
31 commission shall consider the impact of the cost recovery on
32 ratepayers of the electricity supplier.

33 Sec. 10. (a) Subject to subsection (h), an electricity supplier must
34 submit an application to the commission for approval of an electric
35 line facilities project for which the electricity supplier seeks to
36 receive a financial incentive created under section 9 of this chapter.

37 (b) The commission shall prescribe the form for an application
38 submitted under this section.

39 (c) Upon receipt of an application under subsection (a), the
40 commission shall review the application for completeness. The
41 commission may request additional information from an applicant
42 as needed. The commission may not review an application

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submitted after December 31, 2020, unless authorized to do so by the general assembly before January 1, 2021.

(d) The commission, after notice and hearing, shall issue a determination of an electric line facilities project's eligibility for the financial incentives described in section 8 of this chapter not later than one hundred eighty (180) days after the date of the application. A determination under this subsection must include a finding that the applicant electricity supplier is in compliance with the schedule set forth in IC 8-1-37-5(b).

(e) Subject to subsections (g) and (h), the commission shall approve an application by an electricity supplier for an electric line facilities project that is reasonable and necessary. An electric line facilities project is presumed to be reasonable and necessary if the electric line facilities project:

(1) is consistent with, or part of, a plan developed by the:

(A) regional transmission organization; or

(B) Federal Energy Regulatory Commission; or

(2) transmits or distributes electricity generated from renewable energy resources.

However, an electricity supplier may seek approval from the commission at the electricity supplier's next general rate proceeding to include in the electricity supplier's basic rates the recoverable costs sought in an application approved under this subsection.

(f) This section does not relieve an electricity supplier of the duty to obtain any certificate required under IC 8-1-8.5 or IC 8-1-8.7.

(g) The commission shall not approve a financial incentive for that part of an electric line facilities project that exceeds the lesser of:

(1) seven percent (7%) of the electricity supplier's rate base approved by the commission in the electricity supplier's most recent general rate proceeding; or

(2) one hundred fifty million dollars (\$150,000,000).

(h) The commission may not approve a financial incentive under section 9 of this chapter for a particular electricity supplier if the commission has approved a financial incentive under section 9 of this chapter in the preceding twelve (12) months for that electricity supplier, unless the commission determines that approving a particular financial incentive for an electricity supplier on a more timely basis will benefit the electricity supplier's ratepayers.

(i) A financial incentive that the commission approves before

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January 1, 2021, or that an electricity supplier applies for before January 1, 2021, and that is subsequently approved, expires on the earlier of the following dates:

(1) The date on which the electricity supplier accrues the full recovery amount authorized by the commission.

(2) The date specified by the commission in its approval of the financial incentive.

Sec. 11. The commission shall revoke all financial incentives approved under this chapter for an electricity supplier that the commission determines has:

(1) elected to; and

(2) failed to;

comply with the schedule set forth in IC 8-1-37-5(b).

SECTION 7. IC 8-1-8.8-2, AS AMENDED BY P.L.175-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter, "clean coal and energy projects" means any of the following:

(1) Any of the following projects:

(A) Projects at new energy production or generating facilities that employ the use of clean coal technology and that produce energy, including substitute natural gas, primarily from coal, or gases derived from coal, from the geological formation known as the Illinois Basin.

(B) Projects to provide advanced technologies that reduce regulated air emissions from existing energy production or generating plants that are fueled primarily by coal or gases from coal from the geological formation known as the Illinois Basin, such as flue gas desulfurization and selective catalytic reduction equipment.

(C) Projects to provide electric transmission facilities to serve a new energy production or generating facility **or a low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility.**

(D) Projects that produce substitute natural gas from Indiana coal by construction and operation of a coal gasification facility.

(E) Projects or potential projects that employ the use of low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating technologies to produce electricity.

(2) Projects to develop alternative energy sources, including renewable energy projects ~~and~~ **or** coal gasification facilities.

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(3) The purchase of fuels **or energy** produced by a coal gasification facility **or by a low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility.**

(4) Projects described in subdivisions (1) through ~~(3)~~ **(2)** that use coal bed methane.

SECTION 8. IC 8-1-8.8-6, AS AMENDED BY P.L.175-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. As used in this chapter, "eligible business" means an energy utility (as defined in IC 8-1-2.5-2) or owner of a coal gasification facility that:

(1) proposes to construct or repower a new energy production or generating facility;

(2) proposes to construct or repower a project described in section 2(1) or 2(2) of this chapter;

(3) undertakes a project to develop alternative energy sources, including renewable energy projects **or coal gasification facilities;**

(4) purchases fuels **or energy** produced by a coal gasification facility **or by a low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility.**

SECTION 9. IC 8-1-8.8-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) As used in this chapter, "low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility" means an energy production or generation facility, including transmission lines and equipment described in subsection (b), that is:

(1) installed or constructed at the site of a facility that supplies electricity to Indiana retail customers as of July 1, 2009; and

(2) intended to produce:

(A) no carbon dioxide as a byproduct of the production or generation of energy; or

(B) less carbon dioxide per megawatt hour of electricity generated than is produced per megawatt hour of electricity generated by a coal fired or other fossil fuel based energy production or generating facility.

(b) The term includes the transmission lines and other associated equipment employed specifically to serve a low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility.

SECTION 10. IC 8-1-8.8-8, AS AMENDED BY P.L.175-2007,

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SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) As used in this chapter, "new energy **production or** generating facility" refers to a generation or coal gasification facility that satisfies all of the following:

(1) The facility produces energy primarily from coal or gases from coal from the geological formation known as the Illinois Basin.

(2) The facility is a:

(A) newly constructed or newly repowered energy ~~generation~~ plant; or

(B) newly constructed ~~generation~~ capacity expansion at an existing ~~facility~~; **plant**;

dedicated primarily to serving Indiana retail customers.

(3) The repowering, construction, or expansion of the facility was begun by an Indiana utility after July 1, 2002.

(4) Except for a facility that is a clean coal and energy project under section 2(2) of this chapter, the facility has an aggregate rated electric generating capacity of at least one hundred (100) megawatts for all units at one (1) site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam.

(b) The term includes the transmission lines, gas transportation facilities, and associated equipment employed specifically to serve a new energy generating or coal gasification facility.

SECTION 11. IC 8-1-8.8-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.5. As used in this chapter, "qualified utility system expenses" mean any preconstruction costs associated with the study, analysis, or development of a:**

(1) new energy production or generating facility; or

(2) new low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility;

including siting, design, licensing, and permitting costs.

SECTION 12. IC 8-1-8.8-9, AS AMENDED BY P.L.175-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. As used in this chapter, "qualified utility system property" means any:

(1) new energy production or generating or coal gasification facility; or

(2) new low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility;

used, or to be used, in whole or in part, by an energy utility to provide retail energy service (as defined in IC 8-1-2.5-3) regardless of whether

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1 that service is provided under IC 8-1-2.5 or another provision of this
2 article.

3 SECTION 13. IC 8-1-8.8-11 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The commission
5 shall encourage clean coal and energy projects by creating the
6 following financial incentives for clean coal and energy projects, if the
7 projects are found to be reasonable and necessary:

8 (1) The timely recovery of costs incurred during construction and
9 operation of projects described in section 2(1) or 2(2) of this
10 chapter.

11 (2) The authorization of up to three (3) percentage points on the
12 return on shareholder equity that would otherwise be allowed to
13 be earned on projects described in subdivision (1).

14 (3) Financial incentives for the purchase of fuels **or energy**
15 produced by a coal gasification facility **or by a low carbon**
16 **dioxide emitting or noncarbon dioxide emitting energy**
17 **production or generating facility**, including cost recovery and
18 the incentive available under subdivision (2).

19 (4) Financial incentives for projects to develop alternative energy
20 sources, including renewable energy projects **or coal gasification**
21 **facilities**.

22 (5) Other financial incentives the commission considers
23 appropriate.

24 (b) An eligible business must file an application to the commission
25 for approval of a clean coal and energy project under this section. This
26 chapter does not relieve an eligible business of the duty to obtain any
27 certificate required under IC 8-1-8.5 or IC 8-1-8.7. An eligible business
28 seeking a certificate under IC 8-1-8.5 or IC 8-1-8.7 and this chapter for
29 one (1) project may file a single application for all necessary
30 certificates. If a single application is filed, the commission shall
31 consider all necessary certificates at the same time.

32 (c) The commission shall promptly review an application filed
33 under this section for completeness. The commission may request
34 additional information the commission considers necessary to aid in its
35 review.

36 (d) The commission shall, after notice and hearing, issue a
37 determination of a project's eligibility for the financial incentives
38 described in subsection (a) not later than one hundred twenty (120)
39 days after the date of the application, unless the commission finds that
40 the applicant has not cooperated fully in the proceeding.

41 SECTION 14. IC 8-1-8.8-12, AS AMENDED BY P.L.175-2007,
42 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2009]: Sec. 12. (a) The commission shall provide financial incentives to eligible businesses for:

(1) new energy ~~producing and production or~~ generating facilities; **and**

(2) **new low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facilities;**

in the form of timely recovery of the costs incurred in connection with the **study, analysis, development, siting, design, licensing, permitting,** construction, repowering, expansion, operation, or maintenance of the facilities.

(b) An eligible business seeking authority to timely recover the costs described in subsection (a) must apply to the commission for approval of a rate adjustment mechanism in the manner determined by the commission.

(c) An application must include the following:

(1) A schedule for the completion of construction, repowering, or expansion of the ~~new energy generating or coal gasification~~ facility for which rate relief is sought.

(2) Copies of the most recent integrated resource plan filed with the commission, if applicable.

(3) The amount of capital investment by the eligible business in the ~~new energy generating or coal gasification~~ facility.

(4) Other information the commission considers necessary.

(d) The commission shall allow an eligible business to recover:

(1) the costs associated with qualified utility system property; **and**

(2) **qualified utility system expenses;**

if the eligible business provides substantial documentation that the expected costs ~~associated with qualified utility system property~~ and **expenses** and the schedule for incurring those costs **and expenses** are reasonable and necessary.

(e) The commission shall allow an eligible business to recover the costs associated with the purchase of fuels **or energy** produced by a coal gasification facility **or by a low carbon dioxide emitting or noncarbon dioxide emitting energy production or generating facility** if the eligible business provides substantial documentation that the costs associated with the purchase are reasonable and necessary.

(f) A retail rate adjustment mechanism proposed by an eligible business under this section may be based on actual or forecasted data. If forecast data is used, the retail rate adjustment mechanism must contain a reconciliation mechanism to correct for any variance between the forecasted costs and the actual costs.

SECTION 15. IC 8-1-37 IS ADDED TO THE INDIANA CODE AS

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A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 37. Renewable Energy Development

Sec. 1. (a) As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to the public.

(b) The term does not include a utility that is a:

- (1) municipally owned utility (as defined in IC 8-1-2-1(h));
- (2) corporation organized under IC 8-1-13; or
- (3) corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

Sec. 2. As used in this chapter, "regional transmission organization" has the meaning set forth in IC 8-1-8.4-6.

Sec. 3. As used in this chapter, "renewable energy credit", or "REC", means one (1) megawatt hour of electricity that is:

- (1) generated from a renewable energy resource described in section 4(a) of this chapter;
- (2) quantifiable; and
- (3) possessed by not more than one (1) entity at a time.

Sec. 4. (a) As used in this chapter, "renewable energy resources" includes the following sources, technologies, and programs for the production or conservation of electricity:

- (1) Methane systems that convert waste products, including animal, food, and plant waste, into electricity or fuel for the production of electricity.
- (2) Methane recovered from landfills or coal mines.
- (3) Wind.
- (4) Solar photovoltaic cells and panels.
- (5) Clean coal and energy projects (as defined in IC 8-1-8.8-2), including plant efficiency measures.
- (6) Dedicated crops grown for energy production.
- (7) Energy from waste to energy facilities.
- (8) Noncarbon dioxide emitting or low carbon dioxide emitting electricity generating technologies placed in service after June 30, 2009.
- (9) Hydropower.
- (10) Demand side management or energy efficiency programs that:
 - (A) reduce electricity consumption; or
 - (B) implement load management or demand response technologies that shift a customer's electric load from

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periods of higher demand to periods of lower demand.

(11) Combined heat and power systems that:

(A) use natural gas or renewable energy resources as feedstock; and

(B) achieve at least seventy percent (70%) overall efficiency.

(12) Geothermal hot water district heating systems.

(13) Electricity generated through net metering that is regulated under rules adopted by the commission or other Indiana law.

(14) Energy storage facilities.

(15) A renewable energy resource listed in IC 8-1-8.8-10 to the extent the renewable energy resource is not already described in this subsection.

(b) Except as provided in subsection (a)(7), the term does not include energy from the incineration, burning, or heating of the following:

(1) Garbage.

(2) General household, institutional, or commercial waste.

(3) Industrial lunchroom or office waste.

(4) Landscape waste.

(5) Construction or demolition debris.

(6) Feedstock that is municipal, food, plant, industrial, or animal waste from outside Indiana.

Sec. 5. (a) Each electricity supplier shall supply electricity under a schedule set forth in either subsection (b) or (c).

(b) In order to qualify for a financial incentive under IC 8-1-2-23.1 or IC 8-1-8.4-9, an electricity supplier shall supply electricity that is generated from renewable energy resources described in section 4(a) of this chapter to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers during a calendar year as follows:

(1) Not later than the calendar year ending December 31, 2010, at least three percent (3%).

(2) Not later than the calendar year ending December 31, 2015, at least six percent (6%).

(3) Not later than the calendar year ending December 31, 2020, at least ten percent (10%).

(4) Not later than the calendar year ending December 31, 2025, at least fifteen percent (15%).

For purposes of this subsection, electricity is measured in megawatt hours.

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(c) An electricity supplier that elects not to comply with subsection (b) shall supply electricity that is generated from renewable energy resources described in section 4(a) of this chapter to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers during a calendar year as follows:

(1) Not later than the calendar year ending December 31, 2010, at least one and five-tenths percent (1.5%).

(2) Not later than the calendar year ending December 31, 2015, at least four percent (4%).

(3) Not later than the calendar year ending December 31, 2020, at least seven percent (7%).

(4) Not later than the calendar year ending December 31, 2025, at least ten percent (10%).

For purposes of this subsection, electricity is measured in megawatt hours.

(d) An electricity supplier may own or purchase RECs or carbon offset equivalents to comply with subsection (b) or (c), as applicable.

(e) An electricity supplier may not use a renewable energy resource described in section 4(a)(5), 4(a)(8), 4(a)(10), or 4(a)(11) of this chapter to generate more than twenty-five percent (25%) of the electricity that the electricity supplier is required to supply under subsection (b) or (c), as applicable.

(f) If an electricity supplier exceeds the applicable percentage under subsection (b) or (c) in a compliance year, the electricity supplier may carry forward the amount of electricity that:

(1) exceeds the applicable percentage under subsection (a); and

(2) is generated from renewable energy resources; to comply with the requirement under subsection (b) or (c) for either or both of the two (2) immediately succeeding compliance years.

(g) The commission shall consider the costs incurred by an electricity supplier in complying with subsection (b) or (c), as applicable, as consistent with the requirements of IC 8-1-2-42(d)(1) when ruling on a fuel cost charge requested by the electricity supplier under IC 8-1-2-42(d).

Sec. 6. (a) An electricity supplier that elects to, and fails to, comply with the schedule set forth in section 5(b) of this chapter is no longer eligible for financial incentives as provided in IC 8-1-2-23.1(d) or IC 8-1-8.4-11, as applicable.

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(b) An electricity supplier described in subsection (a) shall comply with the schedule set forth in section 5(c) of this chapter beginning in the compliance year in which the electricity supplier fails to comply with the schedule set forth in section 5(b) of this chapter.

Sec. 7. (a) This section applies to an electricity supplier that is required to, and fails to, comply with the schedule set forth in section 5(c) of this chapter.

(b) Beginning January 1, 2011, and annually thereafter, the commission shall determine whether an electricity supplier is in compliance with the schedule set forth in section 5(c) of this chapter. The commission shall make a determination under this subsection not later than March 1 of each year.

(c) If the commission determines that an electricity supplier is not in compliance with the schedule, the commission may impose a reasonable monetary penalty in an amount equal to the product of:

- (1) the number of megawatt hours of electricity that the electricity supplier was required to, but failed to, supply under section 5(c) of this chapter; multiplied by
- (2) twenty-five dollars (\$25).

In determining the amount of the monetary penalty, the commission shall consider the efforts made by the electricity supplier in attempting to comply with the schedule.

(d) If the commission determines not later than December 31 of a year that an electricity supplier against whom a monetary penalty was imposed under subsection (c) has achieved compliance with the schedule the commission may refund all or part of the monetary penalty imposed on the electricity supplier for that calendar year.

Sec. 8. (a) An electricity supplier is not required to timely comply with section 5(b) or 5(c) of this chapter, as applicable, if the commission determines that the electricity supplier has demonstrated that the cost of compliance with section 5(b) or 5(c) of this chapter, as applicable, using the renewable energy resources available to the electricity supplier would result in an unreasonable increase in the basic rates and charges for electricity supplied to customers of the electricity supplier. The commission shall conduct a public hearing to make a determination under this section.

(b) If the commission determines under a hearing conducted under subsection (a) that the cost of compliance with section 5(b) or 5(c) of this chapter, as applicable, would result in an

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unreasonable rate increase, the commission shall extend the applicable deadline imposed under section 5(b) or 5(c) of this chapter. If the commission extends a deadline under this subsection, the commission shall consider whether subsequent deadlines imposed under section 5(b) or 5(c) of this chapter, as applicable, also should be extended.

Sec. 9. (a) The commission shall allow an electricity supplier that complies with the schedule set forth in section 5(b) or 5(c) of this chapter to recover reasonable and necessary costs incurred in:

- (1) constructing, operating, or maintaining facilities to comply with this chapter;
- (2) generating electricity from, or purchasing electricity generated from, a renewable energy resource;
- (3) purchasing RECs or carbon offset equivalents; or
- (4) complying with federal renewable energy resource portfolio requirements;

by a periodic rate adjustment mechanism.

(b) The commission shall revoke a periodic rate adjustment mechanism allowed under subsection (a) for an electricity supplier that the commission determines:

- (1) is required to; and
- (2) has failed to;

comply with section 5(b) or 5(c) of this chapter.

(c) If the commission revokes a periodic rate adjustment mechanism allowed to an electricity supplier under subsection (b), the electricity supplier may request, in the electricity supplier's next general rate case, recovery of reasonable and necessary costs incurred by the electricity supplier in attempting to comply with section 5(b) or 5(c) of this chapter, as applicable.

Sec. 10. (a) For purposes of calculating RECs to determine an electricity supplier's compliance with section 5(b) or 5(c) of this chapter, as applicable, the following apply:

- (1) Except as provided in subdivision (2), one (1) megawatt hour of electricity generated from renewable energy resources in an Indiana facility equals one and five-tenths (1.5) REC.
- (2) One (1) megawatt hour of electricity generated from a renewable energy resource described in section 4(a)(1) or 4(a)(2) of this chapter that originates in Indiana equals two (2) RECs.
- (3) One (1) megawatt hour of electricity that is:
 - (A) generated from a renewable energy resource that is directly interconnected to a regional transmission

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1 organization whose members include an electricity
 2 supplier; and
 3 (B) imported into Indiana;
 4 equals one (1) REC.
 5 (b) An electricity supplier may not apportion all or part of a
 6 single megawatt of electricity among more than one (1):
 7 (1) renewable energy resource; or
 8 (2) category set forth in subsection (a);
 9 in order to comply with section 5(b) or 5(c) of this chapter, as
 10 applicable.
 11 Sec. 11. The Indiana economic development corporation, in
 12 consultation with the commission, shall develop a strategy to
 13 attract renewable energy component manufacturing and assembly
 14 facilities to Indiana.
 15 Sec. 12. Beginning in 2016, not later than March 1 of each year,
 16 an electricity supplier shall file with the commission a report of the
 17 electricity supplier's compliance with this chapter for the
 18 preceding calendar year.
 19 Sec. 13. The commission shall adopt rules under IC 4-22-2 to
 20 implement this chapter. A rule adopted under this section may
 21 establish a procedure by which an electricity supplier that initially
 22 elects to comply with the schedule set forth in section 5(c) of this
 23 chapter may later comply with the schedule set forth in section 5(b)
 24 of this chapter.
 25 SECTION 16. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 420, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Utilities and Technology.

(Reference is to SB 420 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Technology, to which was referred Senate Bill No. 420, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-28-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6. For purposes of IC 5-28-17, "small business" means a business entity that satisfies the following requirements:**

(1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed at least two (2) but not more than one hundred (100) employees.

(2) The majority of the employees of the business entity work in Indiana.

SECTION 2. IC 5-28-5-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. The board, in consultation with the office of energy and defense development, shall establish the office of small business energy advancement to carry out the corporation's duties**

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under IC 5-28-17. The office of energy and defense development shall provide staff support to the office of small business energy advancement.

SECTION 3. IC 5-28-17-1, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The corporation shall do the following to carry out this chapter:

(1) Contribute to the strengthening of the economy of Indiana by encouraging the organization and development of new business enterprises, including technologically oriented enterprises.

(2) Submit an annual report to the governor and to the general assembly not later than November 1 of each year. The annual report must:

(A) include detailed information on the structure, operation, and financial status of the corporation; and

(B) be in an electronic format under IC 5-14-6.

The board shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days before the hearing in accordance with IC 5-14-1.5-5(b).

(3) Approve and administer loans from the microenterprise partnership program fund established by IC 5-28-18.

(4) Conduct activities for nontraditional entrepreneurs under IC 5-28-18.

(5) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(6) Establish and administer the microenterprise partnership program under IC 5-28-19.

(7) Assist small businesses in obtaining state and federal energy tax incentives.

(8) Establish a statewide network of public, private, and educational resources to inform small businesses of the state and federal programs under which they may obtain financial assistance or realize reduced costs.

(b) The corporation may do the following to carry out this chapter:

(1) Receive money from any source, enter into contracts, and expend money for any activities appropriate to its purpose.

(2) Do all other things necessary or incidental to carrying out the corporation's functions under this chapter.

(3) Establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented

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enterprises.

(4) Conduct conferences and seminars to provide entrepreneurs with access to individuals and organizations with specialized expertise.

(5) Establish a statewide network of public, private, and educational resources to assist the organization and development of new enterprises.

(6) Operate a small business assistance center to provide small businesses, including minority owned businesses and businesses owned by women, with access to managerial and technical expertise and to provide assistance in resolving problems encountered by small businesses.

(7) Cooperate with public and private entities, including the Indiana Small Business Development Center Network and the federal government marketing program, in exercising the powers listed in this subsection.

(8) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(9) Approve and administer loans from the microenterprise partnership program fund established by IC 5-28-18.

(10) Coordinate state funded programs that assist the organization and development of new enterprises.

(11) Consult and cooperate with the office of energy and defense development in the establishment of the office of small business energy advancement under IC 5-28-5-6.5.

SECTION 4. IC 5-28-17-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3. The office of small business advancement established under IC 5-28-5-6.5 shall provide free access to the office's services through:**

(1) a toll free telephone number; and

(2) an Internet web page maintained on the web site of the office of energy and defense development."

Page 2, line 8, delete "December 31, 2016." and insert "**The date rates are placed in effect after a general rate proceeding that recognizes an investment by a public utility in the public utility's rate base.**".

Page 2, delete lines 9 through 11.

Page 2, delete line 18.

Page 2, line 41, delete "operated" and insert "**operates**".

Page 3, line 8, after "costs" insert "**, by means of a periodic rate adjustment mechanism,**".

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Page 3, line 21, delete "A schedule determined under".
 Page 3, delete line 22.
 Page 4, delete lines 31 through 42.
 Delete page 5.
 Page 6, delete lines 36 through 42.
 Page 7, delete line 32 through 42.
 Page 8, delete lines 1 through 13.
 Page 8, line 22, delete "costs, regardless" and insert "**costs.**".
 Page 8, delete lines 23 through 24.
 Page 8, delete lines 37 through 42.
 Page 9, delete lines 1 through 26.
 Page 11, delete lines 24 through 42.
 Page 12, delete lines 1 through 14.
 Page 12, line 29, delete "refers to a regional transmission organization" and insert "**has the meaning set forth in IC 8-1-8.4-6.**".
 Page 12, delete lines 30 through 32.
 Page 12, line 40, after "sources" insert ", **technologies,**".
 Page 13, line 5, delete "IC 8-1-8.8-2)." and insert "**IC 8-1-8.8-2), including plant efficiency measures.**".
 Page 13, line 7, delete "producing steam" and insert ".".
 Page 13, delete line 8, begin a new line block indented and insert:
 "(8) Noncarbon dioxide emitting or low carbon dioxide emitting electricity generating technologies placed in service after June 30, 2009.
 (9) Hydropower.
 (10) Demand side management or energy efficiency programs that:
 (A) reduce electricity consumption; or
 (B) implement load management or demand response technologies that shift a customer's electric load from periods of higher demand to periods of lower demand.
 (11) Combined heat and power systems that:
 (A) use natural gas or renewable energy resources as feedstock; and
 (B) achieve at least seventy percent (70%) overall efficiency."
 Page 13, line 22, after "IC 8-1-2-23.1" delete "," and insert "**or**".
 Page 13, line 22, delete "or section 9 of this chapter,".
 Page 14, line 12, after "RECs" insert "**or carbon offset equivalents**".
 Page 14, line 15, after "4(a)(5)" insert ", **4(a)(8), 4(a)(10), or 4(a)(11)**".

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Page 14, line 24, delete "resources in an" and insert "**resources**";.

Page 14, delete line 25.

Page 14, line 32, after "IC 8-1-2-23.1(d)" delete "," and insert "**or**".

Page 14, line 32, delete "or section 9(c) of this chapter,".

Page 15, line 6, delete "shall" and insert "**may**".

Page 15, line 7, delete "on the electricity supplier." and insert "**in an amount equal to the product of:**

(1) the number of megawatt hours of electricity that the electricity supplier was required to, but failed to, supply under section 5(c) of this chapter; multiplied by

(2) twenty dollars (\$20)."

Page 15, line 7, beginning with "In" begin a new line blocked left.

Page 15, line 36, after "5(b)" insert "**or 5(c)**".

Page 15, line 39, delete "or".

Page 15, between lines 41 and 42, begin a new line block indented and insert:

"(3) purchasing RECs or carbon offset equivalents; or

(4) complying with federal renewable energy resource portfolio requirements;".

Page 16, delete lines 1 through 7.

Page 16, line 8, delete "(c)" and insert "**(b)**".

Page 16, line 13, after "5(b)" insert "**or 5(c)**".

Page 16, between lines 13 and 14, begin a new paragraph and insert:

"(c) If the commission revokes a periodic rate adjustment mechanism allowed to an electricity supplier under subsection (b), the electricity supplier may request, in the electricity supplier's next general rate case, recovery of reasonable and necessary costs incurred by the electricity supplier in attempting to comply with section 5(b) or 5(c) of this chapter, as applicable."

Page 16, line 19, delete "(1)" and insert "**and five-tenths (1.5)**".

Page 16, line 25, delete "in the" and insert "**that is directly interconnected to**".

Page 16, line 26, delete "territory of".

Page 16, line 26, delete "organization;" and insert "**organization whose members include an electricity supplier;**".

Page 16, line 28, delete "five-tenths (0.5)" and insert "**one (1)**".

Page 16, delete lines 29 through 33.

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Page 16, line 34, delete "(c)" and insert "(b)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 420 as printed February 17, 2009.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 3.

SENATE MOTION

Madam President: I move that Senate Bill 420 be amended to read as follows:

Page 4, line 3, after "proceeding" insert "**depreciation and**".

Page 4, line 3, after "return" insert ",".

Page 4, line 3, after "exceed" insert "**a total of**".

Page 4, line 4, after "(\$50,000,000)" insert ",".

Page 4, between lines 22 and 23, begin a new paragraph and insert:

"(e) This section expires December 31, 2020, unless reauthorized by the general assembly before December 31, 2020. However, a return accrued under this section before January 1, 2021, expires on the appropriate date determined under subsection (c)(2) even if the expiration date occurs after December 31, 2020."

Page 5, line 36, after "needed." insert "**The commission may not review an application submitted after December 31, 2020, unless authorized to do so by the general assembly before January 1, 2021."**

Page 6, between lines 11 and 12, begin a new line blocked left and insert:

"However, an electricity supplier may seek approval from the commission at the electricity supplier's next general rate proceeding to include in the electricity supplier's basic rates the recoverable costs sought in an application approved under this subsection."

Page 6, between lines 28 and 29, begin a new paragraph and insert:

"(i) A financial incentive that the commission approves before January 1, 2021, or that an electricity supplier applies for before January 1, 2021, and that is subsequently approved, expires on the earlier of the following dates:

(1) The date on which the electricity supplier accrues the full recovery amount authorized by the commission.

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(2) The date specified by the commission in its approval of the financial incentive."

Page 8, line 6, after "facility" insert **", including transmission lines and equipment described in subsection (b),"**

Page 8, line 6, after "is" insert **":**

(1) installed or constructed at the site of a facility that supplies electricity to Indiana retail customers as of July 1, 2009; and (2)".

Page 8, line 7, delete "(1)", begin a new line double block indented and insert:

"(A)".

Page 8, line 9, delete "(2)", begin a new line double block indented and insert:

"(B)".

Page 8, between lines 16 and 17, begin a new paragraph and insert:
"SECTION 10. IC 8-1-8.8-8, AS AMENDED BY P.L.175-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) As used in this chapter, "new energy production or generating facility" refers to a generation or coal gasification facility that satisfies all of the following:

(1) The facility produces energy primarily from coal or gases from coal from the geological formation known as the Illinois Basin.

(2) The facility is a:

(A) newly constructed or newly repowered energy ~~generation~~ plant; or

(B) newly constructed ~~generation~~ capacity expansion at an existing ~~facility~~, **plant;**

dedicated primarily to serving Indiana retail customers.

(3) The repowering, construction, or expansion of the facility was begun by an Indiana utility after July 1, 2002.

(4) Except for a facility that is a clean coal and energy project under section 2(2) of this chapter, the facility has an aggregate rated electric generating capacity of at least one hundred (100) megawatts for all units at one (1) site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam.

(b) The term includes the transmission lines, gas transportation facilities, and associated equipment employed specifically to serve a new energy generating or coal gasification facility."

Page 11, line 18, delete "." and insert **"or fuel for the production of electricity."**

Page 11, line 19, delete "." and insert **"or coal mines."**

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Page 11, between lines 40 and 41, begin a new line block indented and insert:

"(12) Geothermal hot water district heating systems.

(13) Electricity generated through net metering that is regulated under rules adopted by the commission or other Indiana law.

(14) Energy storage facilities.

(15) A renewable energy resource listed in IC 8-1-8.8-10 to the extent the renewable energy resource is not already described in this subsection."

Page 13, between lines 17 and 18, begin a new paragraph and insert:

"(g) The commission shall consider the costs incurred by an electricity supplier in complying with subsection (b) or (c), as applicable, as consistent with the requirements of IC 8-1-2-42(d)(1) when ruling on a fuel cost charge requested by the electricity supplier under IC 8-1-2-42(d)."

Page 13, line 42, delete "twenty" and insert "**twenty-five**".

Page 13, line 42, delete "\$20)." and insert "**(\$25).**".

Re-number all SECTIONS consecutively.

(Reference is to SB 420 as printed February 20, 2009.)

HERSHMAN

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